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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 AMERICAN DIAGNOSTIC MEDICINE,
INC.,

12 Plaintiff,
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14 v.

15 ROBERT WALDER,
PAUL KAPLAN, and
DOES 1 through 100, Inclusive,

16 Defendants.
17

Case No. 07cv2401 W (CAB)

JUDGE: Hon. Thomas J. Whelan
CTRM: 7

**DECLARATION OF LISEANNE R.
KELLY IN SUPPORT OF DEFENDANT
WALDER'S *EX PARTE* APPLICATION
FOR AN EXTENSION OF TIME TO
FILE A RESPONSIVE PLEADING**

18 I, LISEANNE R. KELLY, declare as follows:

19 1. I am duly licensed to practice law before all the courts of this state and am an
20 associate attorney at Luce, Forward, Hamilton & Scripps LLP, counsel of record for Defendant
21 ROBERT WALDER. ("Walder"). I know the matters stated herein of my own personal
22 knowledge and, if called as a witness, could testify competently thereto.

23 2. On January 18, 2008, my colleague Micah Parzen began a four (4) week paternity
24 leave.

25 3. I am informed by Mr. Parzen that he had requested an extension of time to file a
26 responsive pleading from Plaintiff's counsel, as the parties are actively engaged in settlement
27 negotiations, but that Plaintiff indicated it was unwilling to voluntarily grant an extension.

28 4. On January 22, 2008, I also called counsel for Plaintiff to determine if they would

1 voluntarily grant an extension of time for Mr. Walder to respond. I was informed by Plaintiff's
2 counsel that they would not agree to an extension. Later that same day, I informed Plaintiff's
3 counsel, Mr. Aldort, that Mr. Walder would be seeking relief ex-parte and Plaintiff's counsel
4 indicated Plaintiff would not object, but they would like to be appraised if there will be a hearing
5 on this matter.

6 5. On January 22, 2008, I also called counsel for the co-defendant Mr. Kaplan and left
7 him a message that Mr. Walder will be filing this *ex parte* motion. I also followed up with an
8 email to Mr. Kaplan informing him of this *ex parte* motion. To date, I have not received a
9 response.

10 6. Prior to today, our firm was only engaged by Mr. Walder to assist him with
11 settlement negotiations. Today, our firm was retained to represent Mr. Walder with respect to this
12 instant litigation as well.

13 7. In light of the fact that the parties are engaged in active settlement discussions, the
14 fact that our firm was just retained today to represent Mr. Walder with respect to the instant
15 litigation, and the fact that I have just taken over for Mr. Parzen on this matter, additional time is
16 needed to prepare an answer and conduct research regarding possible counter claims Mr. Walder
17 may be required to assert against plaintiff at the time of his answer. Additionally, Defendant
18 Walder is hopeful this matter can be resolved soon via settlement.

19 8. Prior to this motion, Defendant Walder has not sought or obtained any previous
20 extensions of time.

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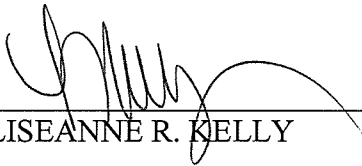
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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed this 22nd day of January, 2008, at San Diego, California.

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LISEANNE R. KELLY

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